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OFFICE OF PETITIONS

In re Application of	:	
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Application No. 10/729,393	:	ON PETITION
Filed: December 5, 2003	:	
Attorney Docket No. BW-DKT03092A	:	

This decision concerns the May 7, 2004 "Petition for Keeping the Filing Date of 12/5/2003" which, in conjunction with the concurrently filed "Response to Notice of Incomplete Nonprovisional Application," is being properly treated as a petition under 37 CFR 1.53(e)(2).

The petition is **GRANTED**.

The application was deposited on December 5, 2003. A "Notice of Incomplete Nonprovisional Application" was mailed on April 27, 2004 ("4/27/04 Notice"), stating that a filing date had not been accorded this application because the application was deposited without a specification, any claim or drawing. The petition then followed.

The petition contends that the allegedly missing items were filed on December 5, 2003. In support, the petition is accompanied by a copy of counsel's postcard receipt, indicating receipt in the USPTO for this application on December 5, 2003 of, *inter alia*, "specification," "drawings," "Declaration/POA." The petition also encloses copies of the papers purportedly filed on December 5, 2003: an 8-page specification (Page 7: 6 claims; Page 8: Abstract); 2 sheets of drawings of Figures 1, 1A, 2, and 2a. The Office file for this application, as pointed out in the 4/27/03 Notice, does not contain any specification, claim or drawing.

Based on the information contained in counsel's postcard receipt, the Office concludes that an 8-page specification (including 6 claims and an abstract) and 2 sheets of drawings had been filed on December 5, 2003 and received by the USPTO, but were later misplaced. The petition is thus granted.

The 4/27/04 Notice is hereby vacated.

No petition fee is owed. The \$130 petition fee has been refunded.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 5, 2003, using the papers filed on that date and supplemented with the re-submitted 8-page specification (including 6 claims and an abstract) and 2 sheets of drawings; for mailing a Filing Receipt reflecting that filing date; and for indicating in the USPTO record that 2 sheets of drawings were present on filing. Thereafter, the file will be forwarded to Technology Center 3600 for examination in due course.

Telephone inquiries should be directed to Petitions Attorney RC Tang at (703) 308-0763.

A handwritten signature in black ink, appearing to read 'C. Brantley', is positioned above the printed name.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions